

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DAVID ANDRADE, Individually and on behalf of Others Similarly Situated	§	
Plaintiff,	§	CIVIL ACTION NO.
VS.	§	11-CV-00620-H LH
SYSTEM CONTROLS AND INSTRUMENTATION, LTD.,	§	
GARY STODDARD, LINDA STODDARD, and BOB KID,	§	
Defendants.	§	

ADVISORY TO THE COURT

SYSTEM CONTROLS AND INSTRUMENTATION, LTD. (“SCI”), GARY STODDARD, LINDA STODDARD, and BOB KID, Defendants in the above-captioned case, file this their Advisory to the Court and state as follows:

Defendants are in receipt of Plaintiff’s Response (Dkt #33) to Defendants’ Motion for Summary Judgment Regarding Claim of Retaliation.

Defendants intend to file a Reply within the allotted time under Local Rule 7(e) which will contain authenticated business records which prove Plaintiff has perjured himself in his declaration. The records Defendants intend to file show David Andrade filed a claim for unemployment benefits with the Texas Workforce Commission on October 24, 2010 and certified such claim as true and correct and that his last day of work at SCI was on October 22, 2010.

Our clients are presently unavailable until after the Martin Luther King holiday, January 16, 2012. Defendants will obtain and file the authenticated business records with the Reply next week.

The law is also clear that a non-movant's conclusory declaration cannot be used to create fact issues with his prior recorded admissions and sworn statements to avoid summary judgment. Defendants' Reply will further demonstrate that summary judgment regarding the claim of retaliation is proper for this reason.

Dated January 12, 2012.

Respectfully submitted,

GARDNER LAW
745 East Mulberry Avenue, Suite 500
San Antonio, Texas 78212
(210) 733-8191 – Telephone
(210) 738-5538 – Facsimile
wws@tclf.com, ehc@tclf.com - Email

By: /s/ William W. Sommers

William W. Sommers
State Bar No. 18842600
Elizabeth H. Connally*
State Bar No. 24073635

*- admitted *pro hac vice*

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing and all attachments and exhibits was served in accordance with the Federal Rules of Civil Procedure, on this 12th day of January 2012, to the following listed counsel of record:

Glenn D. Levy
Larry E. Gee
906 W. Basse Road, Suite 100
San Antonio, Texas 78212
Tel. (210) 822-5666
Fax. (210)822-5650

VIA CM/ECF

ATTORNEYS FOR PLAINTIFF

/s/ William W. Sommers
William W. Sommers